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ATTACHMENT A

186-2066a

28 November 1956

MEMORANDUM FOR: Chief, Technical Accounting Staff

SUBJECT : (a) Proposed R and [REDACTED] Advances;
(b) Proposed R and [REDACTED] Settlement
of Accounts

1. On 7 December 1955 this Office withheld concurrence on R and [REDACTED] because of the questionable legality of provisions of paragraphs 5(i) and (j) which provide for deductions from accrued salary payable of outstanding indebtedness of the employee.

2. We have discussed this problem informally with a representative of the legal staff of the General Accounting Office (Mr. Pat Friend, Code 195, Extension 5419). The courts and the Comptroller General have ruled that involuntary deductions may be made from a Federal employee's current salary only when authorized by statute. Certain deductions authorized by the cited paragraph of the proposed regulation are not authorized by statute and therefore cannot be made without the employee's consent. We have been advised informally that if the employee's consent to deductions to liquidate outstanding advances of the sort contemplated in the regulation were obtained at the time the advance was made, the requirements set forth by the courts and the Comptroller General would appear to be met.

3. In view of the informal advice received from the General Accounting Office, this Office will withdraw its objection to the regulatory provisions for deductions from salary for outstanding advances provided that the employee consents in writing to such deductions. We suggest that form No. 201, Request for Advance of Confidential Funds, be revised to include an agreement by the employee to deductions from his salary for outstanding advances not properly and timely accounted for.

4. Our nonconcurrence in R and [REDACTED] Settlement of Accounts, will be withdrawn under the conditions set forth in the preceding paragraph,

5. The regulations should be reworded to remove all references to involuntary deductions from or set-off of salary.

6. We do not concur in proposed paragraph 7 of R and [REDACTED] covering advances for import duty deposits. The proposed paragraph sets up substantive provisions on Agency responsibility for customs deposits and as such is out of place in a regulation governing advances. There

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appears to be no reason to set forth in this regulation substantive provisions governing customs deposits any more than provisions governing travel or operational expenditures which are quite properly excluded from the regulation. If a particular reference to customs deposits is necessary it should be restricted to a statement that advances may be made for customs deposits in cases where customs duties on the same items would be payable by the Government if levied.

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[REDACTED]
Office of General Counsel

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